Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

CENTRE FOR NEURO SKILLS
2658 MOUNT VERNON AVENUE
BAKERSFIELD CA 93306

Respondent Name

INSURANCE CO OF THE STATE OF PA

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-10-4786-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "In 2008, and for the last fifteen (15) years, the patient has continued to receive these essential and necessary services and, as they are charged at the fair and reasonable rate agreed upon between the parties, these rates should be paid under rule 134.401(a)(2)."

Amount in Dispute: $15,097.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "…Requestor is not owed any reimbursement because of its failure to submit a claim for payment within 95 days of the date of service." "On June 12, 2007, the Claimant was examined by Hooman Sedighi, M.D. Dr. Sedighi specialized in physical medicine and rehabilitation and, as such, would be uniquely qualified to render an opinion as to the Claimant's reasonable and necessary medical care. Dr. Sedighi opined that the Claimant required a structured environment with direct and occasionally indirect supervision at an average ratio of six patients to one caretaker. Requestor claims to provide supervision with a ratio of four patients to one caretaker and, per Dr. Sedighi, this was not medically necessary." "Requestor charged a fee of $487 per day for its services and treatment of the Claimant. The services allegedly being provided and billed under CPT Code 97799 do not have an established Division maximum allowable reimbursement. Because there is not a maximum allowable reimbursement for the services, the amount to be reimbursed is the fair and reasonable amount for the services provided. However, and in order to determine the fair and reasonable amount, the Requestor is required to submit proper documentation." "Respondent conducted a survey of the metropolitan area in which the services were provided, including a specific bid from a competing provider, and as a result determined that the reimbursement rate of $200 per day, was a fair and reasonable amount for the medical services." "Requestor has previously argued that they had a contract with Respondent which stated that a fee of $487 would be paid for each day the claimant remained at Requestor's facility. However, Requestor has not provided any contract signed by Respondent because no such contract or agreement exists."

Response Submitted by: Downs Stanford, PC, 2001 Bryan Street, Suite 4000, Dallas, TX 75201

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
August 1, 2009 through August 15, 2009	Assisted Living Services – CPT Code 97799	$7,305.00	$0.00
August 16, 2009 through August 31, 2009	Assisted Living Services – CPT Code 97799	$7,792.00	$0.00
TOTAL		$15,097.00	$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 sets forth general provisions regarding dispute of medical bills.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §133.308 sets out the procedures for requesting review by an Independent Review Organization (IRO).
4. Texas Labor Code §408.027, titled *PAYMENT OF HEALTH CARE PROVIDER*, effective September 1, 2005, sets out the deadline for timely submitting the medical bills to the insurance carrier.
5. Texas Labor Code §408.0272, titled *CERTAIN EXCEPTIONS FOR UNTIMELY SUBMISSION OF CLAIM,* effective September 1, 2005, providers for exceptions for untimely submission of medical bills.
6. Division rule at 28 TAC §133.20, titled *Medical Bill Submission by Health Care Provider*, effective January 29, 2009, sets out the timeframe for healthcare providers to submit a medical bill.
7. This request for medical fee dispute resolution was received by the Division on July 20, 2010.
8. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of Benefits dated April 6, 2010
   - 937-Service(s) are denied based on HB7 provider timely filing requirement. A provider must submit a medical bill to the insurance carrier on or before the 95th day after the date of service.
   - 29-The time limit for filing has expired.
   - W1-Workers compensation state fee schedule adjustment.

Findings

1. The respondent denied reimbursement for the disputed services based upon reason codes "937-Service(s) are denied based on HB7 provider timely filing requirement. A provider must submit a medical bill to the insurance carrier on or before the 95th day after the date of service"; and "29-The time limit for filing has expired".

   Texas Labor Code §408.027(a) states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

   Texas Labor Code §408.0272(b)(1)(A-C) states "(b) Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if: (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with: (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured; (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title."

   28 Texas Administrative Code §133.20(b), states "Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are

provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied. The medical bill submitted by the health care provider to the correct workers' compensation insurance carrier is subject to the billing, review, and dispute processes established by Chapter 133, including §133.307(c)(2)(A)-(H) of this title (relating to MDR of Fee Disputes), which establishes the generally acceptable standards for documentation."

The requestor submitted copies of bills with a creation date of February 9, 2010 and June 17, 2010. These creation dates are past the filing deadline. The Division finds that the requestor did not submit any documentation to support that the medical bills were submitted timely. The Division finds that the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill for the service in dispute in accordance with Texas Labor Code §408.027(a), Texas Labor Code §408.0272(b)(1)(A-C) and Division rule at 28 TAC §133.20(b).

2. 28 Texas Administrative Code §133.305(a)(4) defines a medical fee dispute as a dispute that involves an amount of payment for non-network health care rendered to an injured employee (employee) for health care determined to be medically necessary and appropriate for treatment of that employee's compensable injury.

   28 Texas Administrative Code §133.305(b) requires that "If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, liability or medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and 408.021."

   28 Texas Administrative Code §133.307(e)(3)(G) requires that if the request contains an unresolved adverse determination of medical necessity, the Division shall notify the parties of the review requirements pursuant to §133.308 of this subchapter (relating to MDR by Independent Review Organizations) and will dismiss the request in accordance with the process outlined in §133.305 of this subchapter (relating to MDR--General). The appropriate dispute process for unresolved issues of medical necessity requires the filing of a request for review by an Independent Review Organization (IRO) pursuant to 28 Texas Administrative Code §133.308 prior to requesting medical fee dispute resolution.

   Review of the submitted documentation finds that there are unresolved issues of medical necessity for the same service(s) for which there is a medical fee dispute. No documentation was submitted to support that the issue(s) of medical necessity have been resolved prior to the filing of the request for medical fee dispute resolution.

   The requestor has failed to support that the services are eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to $0.00 reimbursement for the services in dispute.

Authorized Signature

		5/18/2012
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.